

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

THOMAS WILLIAMS
aka MALIK ALI EL-BEY,

Case No.: 3:20-cv-00213-MMD-WGC

Order

Plaintiff

V.

UNITED STATES OF AMERICA, et. al.,

Defendants

10 Plaintiff is an inmate within the Nevada Department of Corrections (NDOC), housed at
11 Northern Nevada Correctional Center (NNCC), and filed a civil rights complaint under 42
12 U.S.C. 2 U.S.C. § 1983. (ECF No. 1-1.) It was not accompanied by an application to proceed in
13 forma pauperis (IFP) or the \$400 filing fee. On August 19, 2020, the court issued an order
14 advising Plaintiff that he must either file a completed IFP application for an inmate, or pay the
15 \$400 filing fee within 30 days or his action would be dismissed without prejudice. (ECF No. 3.)

16 The order was served on Plaintiff at NNCC; however, it was returned with a notation
17 indicating Plaintiff is now housed at Southern Desert Correctional Center (SDCC). (See ECF No.
18 4.)

19 The Local Rules of Practice for the District of Nevada provide: "Any person who is
20 unable to prepay the fees in a civil case may apply to the court for authority to proceed *in forma*
21 *pauperis* (IFP). The application must be made on the form provided by the court and must
22 include a financial affidavit disclosing the applicant's income, assets, and liabilities." LSR 1-1.
23 When a prisoner seeks to proceed without prepaying the filing fee, in addition to filing the

1 affidavit, the prisoner is required to submit a certified copy of the trust fund account statement
2 (or institutional equivalent) for the six-month period immediately preceding the filing of the
3 complaint. The statement must be obtained from the appropriate official at the prison or
4 detention facility where the prisoner is or was confined. 28 U.S.C. § 1915(a)(2).

5 When a prisoner brings a civil action IFP, the prisoner is still required to pay the full
6 amount of the filing fee. The court is required to assess, and when funds exist, collect an initial
7 partial payment of 20 percent of the greater of: (A) the average monthly deposits in the
8 prisoner's account or (B) the average monthly balance in the prisoner's account for the six-
9 month period immediately preceding the filing of the complaint. Thereafter, whenever the
10 prisoner's account exceeds \$10, the prisoner must make monthly payments of 20 percent of the
11 preceding month's income credited to the prisoners account until the filing fees are paid. The
12 funds are to be forwarded by the agency having custody of the prisoner. 28 U.S.C. § 1915(b)(1),
13 (2).

14 The regular filing fee is \$400, consisting of the \$350 filing fee and a \$50 administrative
15 fee. If an inmate does not qualify for IFP status, he must pay the full \$400 filing fee. If the
16 inmate qualifies for IFP status, the \$50 administrative fee is waived, and the inmate will only pay
17 the \$350 filing fee over time.

18 Once Plaintiff has filed his completed IFP application and financial certificate or paid the
19 filing fee, the court will screen the complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) or 28 U.S.C.
20 § 1915A, or both. Both require dismissal of a complaint, or any portion thereof, that is frivolous
21 or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief
22 against a defendant who is immune from such relief. If the complaint is dismissed on screening,
23

1 there will be no refund of the filing fee, and an inmate proceeding IFP is still required to pay the
2 \$350 filing fee over time.

3 **IT IS HEREBY ORDERED:**

4 (1) The Clerk shall **SEND** a copy of this Order on Plaintiff at SDCC.

5 (2) Within **10 days** of the date of this Order, Plaintiff shall file a notice of change of
6 address with the court indicating his new address at SDCC in compliance with Local Rule IA 3-
7 1, or this action may be dismissed.

8 (3) The Clerk shall **SEND** Plaintiff a copy of the instructions and application to proceed
9 IFP for an inmate.

10 (4) Plaintiff has **30 days** from the date of this Order to either file his completed IFP
11 application and financial certificate or pay the full \$400 filing fee. If he fails to timely do so, this
12 action will be dismissed.

13
14 **IT IS SO ORDERED.**

15 Dated: November 18, 2020

16 William G. Cobb

17 William G. Cobb
United States Magistrate Judge